

U.S. Patent Application Serial No. 09/771,878
Response filed January 27, 2005
Reply to OA dated October 5, 2004

REMARKS

Claims 6-18 are pending in this application. Claims 6, 7, 8, 9-11, 16 and 17 have been amended and new claim 18 has been added herein.

A minor grammatical correction has been made in claims 6 and 7 ("possess" to –possesses–.)

Claim 9, which recites the "uneven width" of the adhesive layer, as supported by page 11, lines 8-9, of the specification, has been amended for clarity. The recitation that "the pressure sensitive adhesive layer covers a periphery of said vent hole" has been deleted as redundant, since the periphery of the vent hole must be covered in order to seal it.

A minor grammatical correction has been made to claims 8, 16 and 17 (insertion of "wherein.")

The other amendments to the claims are discussed below.

Claims 10 and 11 are objected to under 37 CFR §1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. Claim 9 is multiple dependent claim.

Claim 10/2 [sic] is also objected to as being dependent on a canceled claim (i.e. claim 2).

The objections are overcome by the amendments to claims 10 and 11. Claim 10 has been amended to depend only from claim 7, and claim 11 has been amended to depend only from claim

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9. The Examiner apparently meant to indicate that claim 11 (rather than claim 10) was dependent upon canceled claim 2, and this dependency has been deleted.

Claims 6-17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Clarke et al. ('724) in view of Iwata et al. (JP '570) or vice versa, both further in view of Airlie (GB '212) and Lee (EP '251).

The rejection of claims 6-17 is respectfully traversed, and reconsideration of the rejection is requested.

The Examiner cites Clarke as disclosing food in a food container, a plastic sheet (wall 11), a vent hole (aperture 111), and a hole-sealing sheet (layer of PSA (pressure sensitive adhesive) 214 and member 219). Wall 11 in Clarke is a wall of a flat plastic bag (column 6, line 31), and corresponds to the plastic sheet in claim 1. Aperture 111 (column 6, line 34) therefore corresponds to the vent hole.

In Clarke (column 6, lines 48-56), barrier member 213 covers the aperture. This appears to be shown in Fig. 5, in which part of barrier member 213 and layer of PSA 214 cover the aperture. Combined member 219, which apparently corresponds to barrier member 213, is shown in Fig. 11. Therefore, barrier member 213 in Clarke corresponds to the recited base material in the present claims.

The Examiner states that Clarke teaches use of the device for cooking of food in a

microwave, for venting the package because of dangerously high temperatures and pressures (column 1, lines 53-55). Specifically, Clarke indicates that venting would be, for example, at 60-90°C, and that the adhesive of the PSA should melt close to that range (column 5, lines 34-38).

However, Clarke does not disclose the “vertical peeling strength” limitations in the last clause of claim 1, and does not even discuss the “vertical peeling strength” parameter. The significance of this parameter for the combination of pressure sensitive adhesive and hole-sealing sheet is discussed in the specification of the application on page 9, lines 6 and ff.

The Examiner states (page 3, line 12, of the Office action) that the difference between claims 6 and 7 and Clarke is the specific composition of the adhesive layer. The Examiner cites Airlie and Lee as disclosing an adhesive meeting this limitation. Airlie GB ‘212, on page 2, line 13, discloses a composition containing only styrene, butadiene, rosin derivative, and other monomers, where the other monomers may be acrylates. Lee EP’251 discloses a composition formed by polymerizing a vinyl monoaromatic monomer, a conjugated diene, an unsaturated dicarboxylic acid, and an acrylic or methacrylic ester.

However, Applicant submits that the compositions of Airlie and Lee do **not** meet the limitations of the composition recited in claims 6 and 7, which recite separate styrene butadiene-based rubber and acryl-based rubber. The recitation of the claims can be understood in view of the description at the top of page 9 of the present specification, of **blending** styrene-butadiene-based rubber and acryl-based rubber with a rosin-based or petroleum-based material.

By contrast, in Airlie and Lee, the disclosed compositions appear to be **copolymers** of a

variety of monomers, not blends of two rubbers and a third material.

For example, Airlie (page 2, lines 26-36) a mixture of (a) styrene, (b) butadiene, (c) other monomers (which may be acrylates) and (d) resin or rosin. The monomers (a), (b) and (c) are then polymerized in the presence of (d) (page 1, lines 34-35), in the presence of an aqueous solution containing one or more emulsifiers. Therefore, the resulting product is a mixture of a copolymer of (a), (b) and (c) (styrene-butadiene-other monomer), the resin or rosin (d), water, and emulsifier. This does not meet the limitations of adhesive of the present claims.

Lee discloses polymerizing (a) vinyl or vinylidene monomer, (b) conjugated diene, (c) ethylenically unsaturated mono- or di-carboxylic acid, and (d) acrylic or methacrylic ester. The result is clearly a single copolymer. Lee does indicate that a rosin may be added as an optional component (page 4, line 27), but there appears to be no disclosure of or suggestion for the specific combination recited in claims 6 and 7.

Moreover, Applicant refers the Examiner to the present specification on page 9, lines 16 and ff., which explain that the vertical peeling strength limitation of the present claims is not a function only of the **adhesive**, but rather of the overall structure of the claimed container. Therefore, the recited vertical peeling strength limitation would not be inherent in **any** particular adhesive, considered independently of the other components of the container.

The Examiner also cites Iwata et al. (page 4, lines 12 and ff., of the Office action) as differing from claims 6 and 7 in not disclosing an adhesive consisting of styrene/butadiene, acrylate and a rosin-based or petroleum resin-based material. However, the Examiner states that Clarke motivates

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modification of Iwata's adhesive to "exclude the foaming material," and implies that this would then meet the compositional limitation of claim 6.

In response, Applicant submits that there is no motivation in either Clarke or Iwata to modify Iwata's adhesive to meet the compositional limitations of the present claims. The "foam agent" in Iwata (paragraph [0019]) is stated to be important in determining the stickiness, and removal of this component would apparently lead to a non-working device. In addition, since Iwata et al. does not appear to disclose the specific composition of the adhesive other than as "thermal separation adhesive agent containing foam agent," the modification of removing the foam agent still would not yield a disclosure of the compositional requirements of claim 6.

Applicant further respectfully disagrees with the Examiner (Office action, page 4, lines 6-8) that the recited "vertical peeling strength" limitations would be inherent in Iwata et al., in particular given the difference between Iwata's adhesive and that recited in claim 6. Applicant also notes that Iwata's disclosure in paragraphs [0007] and [0019] regarding the stickiness of the adhesive tape, regarding stickiness at ambient temperature and at 70-100 °C, does not address stickiness at the specific temperatures of 40 °C or at 80°C. (The value of stickiness at 70-100 °C is stated only to be the wide range of 50-0 gr/20 mm, corresponding to 250-0 g/cm, which presumably corresponds to approximately 2.5 - 0 N/cm.)

Applicant therefore submits that none of the cited references discloses or suggests the compositional limitations recited in base claim 6 or 7 for the pressure sensitive adhesive layer. Likewise, none of the references discloses or suggests the vertical peeling strength limitations of the

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base claims. Claims 6-17 are therefore non-obvious over the cited references.

Applicant additionally notes the following points about the limitations of the dependent claims 10, 13 and 15.

The Examiner has not examined claim 10 on the merits. Claim 10 specifically requires that the base material be a “white chemical paper.” The analogue of the recited base material in Clarke would appear to be Clarke’s barrier member 213. However, barrier member 213 is part of “a strip of **polymeric** material” (column 6, line 42). This would appear to mean a plastic, which is presumably not a “white chemical paper.”

Claim 13 recites that the plastic sheet is a laminated sheet. Neither Clarke nor Iwata appears to disclose this specific limitation.

Claim 15 requires that the hole-sealing sheet comprise aluminum. Neither Clarke nor Iwata appears to disclose any analogous use of aluminum.

Applicant therefore submits that claims 6-17 are novel and non-obvious over Clarke et al. (‘724), Iwata et al. (JP ‘570), Airlie (GB ‘212) and Lee (EP ‘251), taken separately or in combination.

Regarding new claim 18.

New claim 18 recites a container, with the elements of the plastic sheet, the vent hole, the hole-sealing sheet and the pressure sensitive adhesive layer, and recites the vertical peeling strength

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limitation also found in claims 6 and 7. Claim 18 additionally recites that a “non-adhesive portion is present immediately around said vent hole.” Support for this limitation may be found in non-adhesive portion 5’ in the present specification, appearing in Fig. 1 and discussed on page 11, lines 6-8.

Applicant submits that there appears to be no disclosure or suggestion in Clarke or Iwata et al. for an analogue of the recited non-adhesive portion.

In view of the aforementioned amendments and accompanying remarks, the claims, as amended, are in condition for allowance, which action, at an early date, is requested.

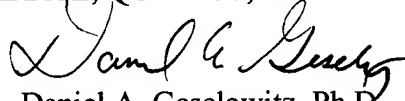
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If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact Applicant's undersigned agent at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, Applicant respectfully petitions for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

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